

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

VERONICA HERNANDEZ, *et al.*,  
Plaintiffs,  
v.  
COUNTY OF FRESNO, *et al.*,  
Defendants.

Case No. 1:22-cv-01145-ADA-EPG

ORDER GRANTING PLAINTIFFS' MOTION  
TO ENLARGE TIME TO SERVE  
INDIVIDUAL DEFENDANTS

(ECF No. 42)

Plaintiff Veronica Hernandez, individually, and as the guardian ad litem for Plaintiffs R.H. and M.H., brings this lawsuit alleging that Defendants failed to prevent and end abuse that Plaintiffs suffered while in foster care. Plaintiffs filed a first amended complaint on February 17, 2023, which, pertinent here, lists as Defendants: Social Worker Christina Lara, Social Worker Torres, Social Worker Lakeisha Atkins, Social Worker Supervisor Marshunda Harding, Social Worker Sergio Klassen, Social Worker Supervisor Annette Jones, and Social Worker Elizabeth Sandate. (ECF No. 25). According to Plaintiffs, none of these Defendants have been served and thus they move for 90 additional days to serve them. (ECF No. 40). Plaintiffs argue that there is good cause for an extension, stating that they have been having discussions with defense counsel about whether counsel would accept service for these Defendants but they have been unable to confirm whether counsel will do so, no prejudice will result to Defendants given that this case is in its infancy, and an extension will not unduly delay this case.

Under Federal Rule of Civil Procedure 4(m), “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). However, “if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” *Id.* “Additionally, the rule permits the district court to grant an extension even in the absence of good cause.” *Efaw v. Williams*, 473 F.3d 1038, 1040 (9th Cir. 2007) (discussing prior, but materially similar, version of the Rule).

The Court will exercise its discretion to grant the extension. Notably, the non-expert discovery deadline does not expire until February 2, 2024.<sup>1</sup> (ECF No. 27). And based on Plaintiffs’ representations, they have at least been making an effort to serve the individual Defendants by having discussions with defense counsel.

Accordingly, IT IS ORDERED as follows:

1. Plaintiff’s motion to enlarge the time to serve the individual Defendants (ECF No. 42) is granted.
2. The hearing noticed for September 11, 2023, on the motion is vacated.
3. Plaintiffs shall have an extension until October 31, 2023, to serve Social Worker Christina Lara, Social Worker Torres, Social Worker Lakeisha Atkins, Social Worker Supervisor Marshunda Harding, Social Worker Sergio Klassen, Social Worker Supervisor Annette Jones, and Social Worker Elizabeth Sandate.<sup>2</sup>
4. This deadline should be considered firm, and no further extensions will be given absent good cause.

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<sup>1</sup> However, given the delay in service, the Court will consider modifications to the scheduling order, after the Defendants are served, based on a properly supported stipulation or motion.

<sup>2</sup> The motion lists this Defendant’s name as “Elizabeth Sandante”; however, the complaint uses “Elizabeth Sandate.”

5. The Clerk of Court is directed to add Social Worker Elizabeth Sandate as a Defendant on the docket.

IT IS SO ORDERED.

Dated: **August 2, 2023**

/s/ Eric P. Goss  
UNITED STATES MAGISTRATE JUDGE